

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
SHAEL CRUZ, *Individually, and On Behalf of All Others:*
Similarly Situated, :

Plaintiff, :

-v- :

EXCLUSIVE FURNITURE, L.P., :

Defendant. :

21 Civ. 9991 (JPC)

ORDER

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JOHN P. CRONAN, United States District Judge:

The Court adjourns the default judgment hearing scheduled for May 20, 2022 at 11:00 a.m. until May 25, 2022 at 11:00 a.m. At the scheduled time, counsel for all parties should call (866) 434-5269, access code 9176261.

Given that the Defendant has appeared and answered the Complaint, *see* Dkt. 9, the May 25 “court appearance shall . . . serve as an Initial Case Management Conference pursuant to 5.B of the Court’s Individual Rules and Practices in Civil Cases.” Dkt. 6 at 2. Counsel should be prepared to discuss at the May 25 conference whether the Complaint alleges a valid cause of action under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. *See, e.g., Winegard v. Newsday LLC*, No. 19 Civ. 04420 (EK), 2021 WL 3617522, *1 (E.D.N.Y. Aug. 16, 2021) (“[T]he ADA excludes, by its plain language, the websites of businesses with no public-facing, physical retail operations from the definition of ‘public accommodations.’”); *Martinez v. MyLife.com, Inc.*, No. 21 Civ. 4779 (BMC), 2021 WL 5052745, at *2-*3 (E.D.N.Y. Nov. 1, 2021) (same); *Gil v. Winn-Dixie Stores, Inc.*, 993 F.3d 1266, 1277 (11th Cir. 2021) (“[W]ebsites are not a place of public accommodation under Title III of the ADA.”), *opinion vacated on mootness grounds on panel reh’g*, 2021 WL 6129128 (11th Cir. Dec. 28, 2021).

Counsel are directed to confer with each other prior to the conference regarding settlement and each of the other subjects to be considered at the IPTC. No later than seven days prior to the IPTC, it is further ORDERED that the parties shall submit a joint letter, not to exceed five (5) pages, addressing the following in separate paragraphs:

- (1) A brief statement of the nature of the action and the principal defenses thereto;
- (2) A brief explanation of why jurisdiction and venue lie in this Court;
- (3) A brief description of all outstanding motions and/or all outstanding requests to file motions;
- (4) A brief description of any discovery that has already taken place, and that which will be necessary for the parties to engage in meaningful settlement negotiations;
- (5) A list of all prior settlement discussions, including the date, the parties involved, and the approximate duration of such discussions, if any;
- (6) The estimated length of trial; and
- (7) Any other information that the parties believe may assist this Court in resolving the action.

By that date, the parties shall also submit to the Court a proposed case management plan and scheduling order, a template of which is available at <https://www.nysd.uscourts.gov/hon-john-p-cronan>.

SO ORDERED.

Dated: May 11, 2022
New York, New York



JOHN P. CRONAN
United States District Judge